

REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-30 remain pending in the case. Claims 1-30 are rejected. Claims 3, 13, 21, 23 and 24 are amended herein. No new matter has been added.

OATH/DECLARATION

Submitted herewith are declarations in compliance with 37 CFR 1.67(a).

CLAIM INTERPRETATION

Applicants respectfully note the Examiner's interpretation of the claimed "personalities" and respectfully submit that the term "personalities" is not limited to such an interpretation. For instance, as recited in the current specification, "[a] personality includes static information describing a device, such as the device type, the device operating system version, and device interface information" (page 12, lines 2-4).

SPECIFICATION

The specification is amended herein deleting any reference to the trademark CiscoWorks.

CLAIM OBJECTIONS

Claims 3, 4, 13, 14, 21, 23 and 24 are objected. Claims 3, 13, 21 and 23 are amended herein as suggested by the Examiner. Applicants respectfully submit that Claims 4, 14 and 24 are grammatically correct and require no correction. For instance, with regards to Claims 4 and 14, the term “comprises” modifies “determining personalities”, e.g., “wherein the determining personalities ... comprises”. Moreover, with regard to Claim 24, the term “comprises” modifies “means for determining personalities”, e.g., “wherein the means for determining personalities ... comprises”.

35 U.S.C. §101

Claims 1-7, 9 and 10 are rejected under 35 U.S.C. §101 as being directed toward non-statutory subject matter. In particular, Claim 1 is rejected based on the Examiner’s assertion that “[b]ecause the build file is not stored or made available for use through a form of conveyance, the method lacks a tangible result.” Applicants respectfully submit that Claims 1-7, 9 and 10 overcome the rejection under 35 U.S.C. §101 for at least the following rationale.

Applicants respectfully direct the Examiner to the MPEP that recites

The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a 35 U.S.C. 101 judicial exception, in that the process claim must set forth a practical application of that judicial exception to produce a real-world result. (emphasis added; MPEP 2106 (IV)(C)(2)((2))(b)).

Claim 1 recites in part “automatically generating a build file describing the simulated network based on the network discovery database” (emphasis added). Applicants respectfully submit that a tangible result does not require that the build file is stored or made available for use through a form of conveyance, as asserted by the Examiner, nor does the claim preclude such storage or conveyance. Moreover, Applicants respectfully submit that a tangible result does not require that a generated build file is made for use, and that the claim does not preclude usage of the build file. Applicants respectfully submit that by reciting the claim limitation of “generating a build file”, the claimed embodiment provides a useful, tangible and concrete result.

The Examiner states that the limitations of Claim 8, “wherein the build file is for use by a network management simulator to simulate a network”, is patentable subject matter. By stating that the limitations of Claim 8 that is dependent on Claim 1, the Examiner appears to be applying a technological arts test to the claims. Applicants respectfully submit that the test for patentable subject matter under 35 U.S.C. §101 does not include a separate “technological arts” test (*ex parte Lundgren*, Board of Patent Appeals and Interferences, Appeal No. 2003-2088, 9/28/05). The court in *ex parte Lundgren* held that “[w]e do not view the court’s statement in Musgrave in regard to the technological arts to have created a separate “technological arts” test in determining whether a process is statutory subject matter” (Id., emphasis in original). In particular, the court held

“that there is currently no judicially recognized separate “technological arts” test to determine patent eligible subject matter under § 101” (Id., emphasis added).
The court also declined to create such a test (Id.).

Applicants respectfully submit that the claim limitation of “automatically generating a build file describing the simulated network based on the network discovery database”, provides a useful, tangible and concrete result, and is thus directed toward statutory subject matter and overcomes the rejection of Claim 1 under 35 U.S.C. §101. Therefore, Applicants respectfully submit that Claims 2-7, 9 and 10 that depend from independent Claim 1 also overcomes the rejection under 35 U.S.C. §101.

35 U.S.C. §102(b)

Claims 1-30 are rejected under 35 U.S.C. §102(b) as being anticipated by “Design, Realization and Evaluation of a Component-Based Compositional Software Architecture for Network Simulation” by Tyan, hereinafter referred to as the “Tyan” reference. Applicants have reviewed the cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 1-30 are not anticipated by Tyan for at least the following rationale.

Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A method for generating a simulated network, the method comprising:
accessing a network discovery database for a managed network, wherein the network discovery database comprises device information and connectivity information for a plurality of devices of the managed network; and
automatically generating a build file describing the simulated network based on the network discovery database.

Independent Claims 11 and 21 recite similar limitations. Claims 2-10 that depend from independent Claim 1, Claims 12-20 that depend from independent Claim 11, and Claims 21-30 that depend from independent Claim 20 provide further recitations of the features of the present invention.

According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration” (W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983); see also MPEP 2131). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claim” (emphasis added; Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984); see also In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); see also MPEP 2131). In other words “[t]he identical invention must be shown in as complete detail as is contained in the ...claim” (emphasis added; Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131).

In the current Office Action, the Examiner impermissibly makes reference to multiple different embodiments of Tyan in supporting the grounds of rejection. In particular, in supporting the rejection of independent Claims 1, 11 and 21, the Examiner relies on a first embodiment described at page 108, section 7.3, lines 1-4, as disclosing “accessing a network discovery database for a managed network” as claimed, and relies on a second embodiment described at page 14, section 2.2, paragraph 2, lines 3-7, as disclosing “wherein the network discovery database comprises device information and connectivity information for a plurality of devices of the managed network” as claimed.

Applicants respectfully assert that combining different embodiments of Tyan is improper for an anticipation rejection, as Tyan does not disclose each element of the claimed invention “arranged as in the claims.” In other words, Applicants respectfully asserts that the Examiner has improperly combined different embodiments of Tyan, and that anticipation of such a combination is not supported by Tyan.

Moreover, Applicants respectfully assert that the two embodiments relied on by the Examiner are mutually exclusive. Applicants understand the first embodiment to be directed toward a new component called the autonomous component architecture (ACA) (see at least Chapter 7, page 89, first paragraph, lines 1-2). In contrast, Applicants understand the second embodiment to be

directed toward a prior art architectural design language (ADL) (see at least page 14, section 2.2, paragraph 2, lines 1-11). In particular, Tyan specifically recites that ACA differs from conventional ADL software architecture approaches in many ways (see at least page 15, line 1, through page 16, line 17).

As described above, the prior art reference must disclose each element of the claimed invention “arranged as in the claims” to support an anticipation rejection. The Examiner relies on different embodiments of Tyan as teaching different claim limitations. In particular, the different embodiments are mutually exclusive. Applicants respectfully assert that relying on the teachings of the different embodiments of Tyan is improper, as the combination does not disclose each element “as arranged in the claims.” Therefore, Applicants respectfully assert that the rejection of Claims 1, 11 and 21 under 35 U.S.C. § 102(b) is not proper, and that Claims 1, 11 and 21 thus overcome the rejection under 35 U.S.C. § 102(b).

Applicants respectfully assert that Tyan does not teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 11 and 21, that these claims overcome the rejection under 35 U.S.C. § 102(b), and that these claims are thus in a condition for allowance. Therefore, Applicants respectfully submit that Tyan also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2-10 that depend from independent Claim 1, Claims 12-20 that

depend from independent Claim 11, and Claims 22-30 that depend from independent Claim 21. Therefore, Applicants respectfully submit that Claims 2-10, 12-20 and 22-30 also overcome the rejection under 35 U.S.C. § 102(b), and are in a condition for allowance as being dependent on an allowable base claim.

CONCLUSION

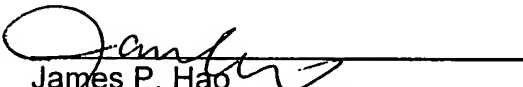
Based on the arguments presented above, Applicants respectfully assert that Claims 1-30 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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